**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN,
JAIPUR BENCH, JAIPUR.**

S. B. CIVIL MISC. APPEAL NO. 845/1997

SMT. DHAPU & OTHERS.
v
MAHAVEER & OTHERS

Date of Judgment: FEBRUARY 26, 2007.

Hon'ble Mr. Justice R. S. Chauhan

Mr. Sandeep Mathur for the appellants.
Mr. Vinod Tyagi for the respondents.

By Court:

This appeal arises out of the award dated 30.5.97 whereby the Motor Accident Claims Tribunal, Tonk (henceforth to be referred to as 'the Tribunal', for short) has awarded a compensation of Rs. 1,14,000/- to the appellants.

In a nutshell, the facts of the case are that on 2.5.93, the husband of appellant No.1, Ladu Lal, was travelling in a truck as a labourer. The said truck turned turtle. Consequently, Ladu Lal and another labourer, Shanker, expired. Their dependants filed claim petition before the learned Tribunal. In the claim petition, the owner and driver as well as the Insurance Company were arrayed as the respondents. The respondents also filed their written statement. On the basis of the pleadings, the learned Tribunal framed six issues. In

order to support their case, the appellants examined five witnesses. The respondents did not examine any witness on their behalf. After going through the oral and documentary evidence, the learned Tribunal, vide award dated 30.5.97, granted the compensation as mentioned above. Hence, this appeal for enhancement.

Mr. Sandeep Mathur, the learned counsel for the appellant has argued that at the time of death, Ladu Lal was 50 years old. Therefore, according to the Second Schedule attached to the Motor Vehicle Act, 1988 (henceforth to be referred to as 'the Act', for short), the multiplier of 13 should have been applied. However, the learned Tribunal has applied only a multiplier of 8. Moreover, the learned Tribunal has not given any reason for reducing the multiplier from 13 to 8. Therefore, the impugned award is a non-speaking award and is not in consonance with the Second Schedule. It is also argued that the non pecuniary factors such as loss of consortium, loss of love and affection, funeral expenses are on the lower side.

On the other hand, Mr. Vinod Tyagi, has supported the impugned award.

We have heard both the learned counsels and have perused the impugned award.

Admittedly, the age of the deceased was between the

age of 45-50 years; the learned Tribunal should have applied the multiplier of 13. However, in the impugned award, the learned Tribunal has not stated any reason for applying a multiplier of 8. Therefore, it is beyond the comprehension of this Court as to the non-application of multiplier of 13 by the learned Tribunal. In such circumstances, this Court has no option but to modify the award by applying a multiplier of 13 instead of multiplier of 8. Taking the income of the deceased as 1,500/- per month, he would have spent atleast 1,000/- on the appellants. Therefore, after applying the multiplier of 13 the amount would be 1,000 x 12 x 13 = 1,56,000/-.

In the result, this appeal is allowed and in the category of loss of income, the compensation amount is enhanced from 96,000/- to Rs. 1,56,000/-. But the compensation paid in the category of non pecuniary category will not be disturbed. Therefore, a compensation of Rs. 1,74,000/- alongwith 12% interest per annum from the date of the filing of the claim petition to 31.5.97, the date of the passing of the award is being granted. However, from the date of filing of this appeal i.e. 18.9.97 till the date of realization, an interest of 9% shall be paid. The Tribunal is directed to recover the said amount from the Insurance Company within a period of two months and to ensure that the said amount is received by the appellants within the said period.

(R.S. CHAUHAN) J.

MRG.